

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01362

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01665

DEFENDANTS' MOTION TO COMPEL THIRD-PARTY DISCOVERY

Pursuant to Rules 26, 37, and 45 of the Federal Rules of Civil Procedure and the Court's Memorandum Opinion and Order of May 11, 2020, ECF 410, Defendants hereby move for an order compelling the third parties listed in the chart below to produce documents responsive to Defendants' subpoenas, also listed in the chart below, so that Defendants have a meaningful opportunity to take the fact depositions needed to defend themselves in this matter.

Subpoena Recipient	Parent Agency / Employer	Date of Service	Any Productions Made?
W. Va. Department of Military Affairs and Public Safety (DMAPS)	N/A	2/11/2020	No
W. Va. State Police	DMAPS	2/11/2020	No
W. Va. Division of Corrections and Rehabilitation	DMAPS	2/11/2020	No
W. Va. Division of Justice and Community Service	DMAPS	2/11/2020	No
Darren Cox, FBI Agent and former head of the Huntington Drug and Violent Crime Task Force	FBI	4/3/2020	No
W. Va. Department of Health and Human Resources (DHHR)	N/A	3/17/2020	No
Karen Bowling, Former DHHR Secretary	DHHR	4/17/2020	No
Bill J. Crouch, DHHR Secretary	DHHR	4/17/2020	No
Robert H. Hansen, Director of DHHR Office of Drug Control Policy	DHHR	4/20/2020	No
W. Va. Bureau for Medical Services (BMS)	DHHR	3/17/2020	No
Cynthia Beane, BMS Commissioner	DHHR	4/23/2020	No
Vicki Cunningham, former BMS Director of Pharmacy Services	DHHR	4/23/2020	No
Linda Watts, Commissioner of the BCF	DHHR	5/4/2020	No
W. Va. Bureau for Behavioral Health (BBH)	DHHR	5/4/2020	No
Christina Mullins, Commissioner of the BBH	DHHR	5/4/2020	No
W. Va. Bureau for Child Support Enforcement	DHHR	5/4/2020	No
W. Va. Health Statistics Center	DHHR	5/4/2020	No
W. Va. Bureau for Public Health (BPH)	DHHR	5/4/2020	No
Catherine Slep, Commissioner of the BPH	DHHR	5/4/2020	No
Governor's Council on Substance Abuse Prevention and Treatment (c/o DHHR)	DHHR	3/3/2020	Yes; 7 documents.
Brian Gallagher, Marshall University Pharmacy Professor and Chair of Governor's Council	DHHR	4/20/2020	No

Stephen Petrany, M.D., Marshall Health Professor and Member of Governor's Council	DHHR	4/20/2020	No
Rahul Gupta, M.D., W. Va. Chief Health Officer and Commissioner	DHHR	4/17/2020	No
W. Va. Board of Pharmacy	N/A	3/3/2020	Yes; being processed.
W. Va. Board of Medicine	N/A	2/21/2020	Yes
W. Va. Board of Osteopathic Medicine	N/A	2/25/2020	Yes
W. Va. Board of Dentistry	N/A	3/12/2020	Yes
W. Va. Board of Registered Professional Nurses	N/A	3/12/2020	Yes
W. Va. State Medical Association	N/A	4/29/2020	No
W. Va. Osteopathic Medical Association	N/A	4/29/2020	No
American Medical Association	N/A	4/29/2020	No
American Osteopathic Association	N/A	4/29/2020	No
Coalition for Responsible Chronic Pain Management (c/o W. Va. Legislature Joint Committee on Government and Finance)	N/A	3/3/2020	Yes; 21 documents.
Cabell-Huntington Health Department	N/A	3/5/2020	Yes
Cabell Huntington Hospital and Saint Mary's	N/A	3/12/2020 (Cabell Huntington)	No

		4/15/2020 (Saint Mary's)	
Marshall University	N/A	4/15/2020	Yes
Marshall Health	Marshall University	4/15/2020	Yes
Quality Insights	N/A	3/25/2020	No
Valley Health	N/A	3/25/2020	No
Healthy Connections	N/A	3/23/2020	No
PROACT, Inc.	N/A	3/31/2020	Yes
W. Va. Public Employees Insurance Agency ("PEIA")	N/A	3/17/2020	No

Defendants' motion should be granted for the reasons set forth in the accompanying memorandum of law, which is incorporated here. Pursuant to LR Civ P 7.1(a), copies of all documents, affidavits, and other such materials or exhibits referenced in the memorandum and upon which this motion relies are attached to this motion.

Defendants further certify that they have conferred with counsel for these non-parties in an effort to resolve the subject discovery dispute without court intervention. Subpoena negotiations with these non-parties are proceeding in good faith, and Defendants expect that these non-parties will meet the June 12, 2020 deadline for document discovery. Defendants file this motion to comply with the Court's May 11, 2020 Memorandum Opinion and Order and to preserve their rights. But Defendants respectfully request that this motion be held in abeyance

pending their subpoena negotiations with these non-parties, and that no non-party be required to respond to this motion at this time.

Dated: May 15, 2020

Respectfully Submitted,

McKesson Corporation

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this 15th day May, the foregoing **“Defendants’ Motion to Compel Third-Party Discovery”** was served using the Court’s CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jeffrey M. Wakefield
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